

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JOHNNIE MAE OWENS

PLAINTIFF

VS.

CIVIL ACTION NO. 3:17-cv-314-DPJ-FKB

**THE KROGER CO., and
JOHN DOES 1-5**

DEFENDANTS

ORDER GRANTING MOTION TO EXTEND EXPERT DESIGNATION DEADLINE

Before the Court is Kroger's Motion for Extension of the Expert Designation Deadline [19]. For the reasons stated below, the Court finds that Kroger's motion should be granted.

The plaintiff, Johnnie Mae Owens, designated an expert, Dr. Jeffrey Ali, on October 3, 2017, her expert designation deadline. *See* [12], [13-1]. The designation states that "Dr. Ali is expected to testify to the facts and opinions contained in his reports and records, copies of which will be produced when received." [13-1] at 1-2.

Kroger filed a motion to strike Dr. Ali as an expert on October 10, 2017, due to Owens's failure to produce the records with the designation. [13].¹ Owens represented that she did not receive Dr. Ali's records until October 26, 2017, and promptly produced them to Kroger. [26] at 1-2. Kroger has confirmed that it received Dr. Ali's records on October 26, 2017. *See* [30] at 1. Kroger's expert designation deadline was November 3, 2017, [5] and Kroger designated its experts on that date. *See* [22].

¹ The undersigned denied Kroger's motion to strike without prejudice on the grounds that Kroger failed to request a Fed. R. Civ. P. 16(b)(3)(B)(v) conference prior to filing the motion, as required by section 6.F.4. of the Case Management Order [5]. *See* Text-Only Order dated 12/5/2017. Subsequently, Kroger's counsel requested a Fed. R. Civ. P. 16(b)(3)(B)(v) conference, which was held on January 12, 2018.

On January 12, 2018, the undersigned held a Fed. R. Civ. P. 16(b)(3)(B)(v) discovery conference at the request of Kroger's counsel. During the conference, the undersigned proposed, and counsel for Owens and Kroger agreed to, an extension of Kroger's expert designation deadlines to afford Kroger an opportunity to supplement its expert designation, if necessary, in relation to Dr. Ali's opinions and records.

IT IS, THEREFORE, ORDERED, that Kroger's expert designation deadline is hereby extended to February 8, 2018 for the purpose of allowing Kroger to supplement its expert designation in relation to Plaintiff's October 3, 2017, designation of Dr. Ali and records produced to Kroger on October 26, 2017.

SO ORDERED this the 22nd day of January, 2018.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE